



LOZEAU DRURY LLP

T 510.836.4200  
F 510.836.4205

410 12th Street, Suite 250  
Oakland, Ca 94607

www.lozeaudrury.com  
doug@lozeaudrury.com

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

June 17, 2014

Susan Klassen – Director County of Sonoma – Transportation and Public Works Department 2300 County Center Dr. Ste B-100 Santa Rosa, CA 95407	3 <sup>rd</sup> District Supervisor Shirlee Zane County of Sonoma Board of Supervisors 575 Administration Drive, Room 100A Santa Rosa, CA 95403
Henry Mikus, Executive Director Sonoma County Waste Management Agency 2300 County Center Dr. Ste B-100 Santa Rosa, CA 95407	4 <sup>th</sup> District Supervisor Mike McGuire County of Sonoma Board of Supervisors 575 Administration Drive, Room 100A Santa Rosa, CA 95403
1 <sup>st</sup> District Supervisor Susan Gorin County of Sonoma Board of Supervisors 575 Administration Drive, Room 100A Santa Rosa, CA 95403	5 <sup>th</sup> District Supervisor Efren Carrillo County of Sonoma Board of Supervisors 575 Administration Drive, Room 100A Santa Rosa, CA 95403
2 <sup>nd</sup> District Supervisor David Rabbitt County of Sonoma Board of Supervisors 575 Administration Drive, Room 100A Santa Rosa, CA 95403	Trish Pisenti Central Disposal Site 500 Mecham Road Petaluma, CA 94952
Alan Siegle, Co-Owner Sonoma Compost Company 550 Mecham Road Petaluma, CA 94952	Will Bakx, Co-Owner Sonoma Compost Company 550 Mecham Road Petaluma, CA 94952

**Re: Notice of Violations and Intent to File Suit Under the Federal Water  
Pollution Control Act**

Notice of Violations and Intent to File Suit

Dear Messrs Mikus, Rabbitt, Siegle, McGuire, Carrillo, and Bakx; and Mmes Klassen, Gorin, Zane, and Pisenti:

I am writing on behalf of Renewed Efforts of Neighbors Against Landfill Expansion ("RENALE") in regard to violations of the Federal Water Pollution Control Act (the "Clean Water Act" or "Act") that RENALE believes are occurring at Central Disposal Site, the County of Sonoma's industrial facility located at 500 Mecham Road in Petaluma, California ("Facility"). RENALE is an unincorporated organization of concerned citizens residing in close vicinity to the Central Disposal Site. Members of RENALE live at the Happy Acres subdivision, located on Mecham Road northeast of the Central Disposal Site, and are concerned about the environmental and public health impacts of the Facility. The violations in particular relate to the operations of the composting facility at the Central Disposal Site. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "Central Disposal").

This letter addresses Central Disposal's unlawful discharge of pollutants from the Facility into channels that flow into Stemple Creek, which then flows into the Estero de San Antonio, which then flows into Bodega Bay. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit").<sup>1</sup> The WDID identification number for the Facility listed on documents submitted to the Regional Water Quality Control Board, North Coast Region ("Regional Board") is 1 49I006101. The Facility is engaged in ongoing violations of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Central Disposal is hereby placed on formal notice by RENALE that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, RENALE intends to file suit in federal court against Central Disposal under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

---

<sup>1</sup> On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT") and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

**I. Background.**

On April 21, 1992, the State Board approved Central Disposal's Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). The County of Sonoma is listed as the facility operator on the NOI. In its NOI and Annual Reports, Central Disposal has certified that the Facility is classified under SIC Codes 5093, 1429, and 4953. The Facility collects and discharges storm water from its 372-acre industrial site into a series of perimeter ditches, stormdrain pipes, downchutes, and sedimentation ponds. The sedimentation ponds discharge the storm water to two unnamed tributaries that flow to Stemple Creek, which flows to the Estero de San Antonio, which flows to Bodega Bay.

The composting facility encompasses 35 acres at the Central Disposal Site. Its operations consist of the receipt of green material and wood waste, processing (grinding) of green material and wood waste, windrow composting of green material (yard trimmings with some commingled food scraps), and load-out of finished compost and processed wood waste. Sonoma Compost Company ("SCC") currently operates the existing composting facility at the Central Disposal Site under a contract to the Sonoma County Waste Management Agency ("SCWMA"). Waste discharges from the composting facility enter the storm water management system at Central Disposal, ultimately discharging from the Facility through channels that flow to Stemple Creek.

The Regional Board has identified beneficial uses of the North Coast Region's waters and established water quality standards for the Estero de San Antonio as well as coastal streams including Stemple Creek, in the "Water Quality Control Plan for the North Coast Region," generally referred to as the Basin Plan. See [http://www.waterboards.ca.gov/northcoast/water\\_issues/programs/basin\\_plan/basin\\_plan.shtml](http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/basin_plan.shtml). The beneficial uses of these waters, include, among others, water contact recreation, non-contact water recreation, commercial and sport fishing, municipal and domestic water supply, marine habitat, shellfish harvesting, and navigation. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, . . ., camping, boating, . . ., hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." Basin Plan at 2-2.00.

The Facility is also subject to Waste Discharge Requirements for Operation, Corrective Action, New Construction, and Closure at the Sonoma County Central Disposal Site ("WDRs"), certified by the Regional Board on March 14, 2013. Order No. R1-2013-0003. The County of Sonoma is listed as the Discharger on the WDRs. Discharge Prohibition A(3) of the WDRs provides that "[t]he discharge of waste including solids, liquids, leachate, or landfill gas to surface water, surface water drainage systems or groundwater is prohibited." Discharge Prohibition A(15) provides that "[t]he discharge of wastes from activities occurring upon or within the landfill footprint, including composting activities, to stormwater sedimentation basins, surface, and/or ground water is prohibited."

## **II. Alleged Violations of the Clean Water Act and the General Permit.**

### ***A. Non-storm Waters Discharges in Violation of the Permit***

Central Disposal has violated and continues to violate the terms and conditions of the General Permit. Discharge Prohibition A(1) requires that “materials other than storm water (non-storm water discharges) that discharge either directly or indirectly to waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.” Special Condition D(1) of the General Permit authorizes the following types of non-storm water discharges: “fire hydrant flushing; potable water sources, including potable water related to the operation, maintenance, or testing of potable water systems; drinking fountain water; atmospheric condensates including refrigeration, air conditioning, and compressor condensate; irrigation drainage; landscape watering; springs; ground water; foundation or footing drainage; and sea water infiltration where the sea waters are discharged back into the sea water source.” Such authorized non-storm water discharges must also meet a number of conditions including, among others, that such discharges “do not contain significant quantities of pollutants” and that “the non-storm water discharges are reported and described annually as part of the annual report.” Special Conditions D(1)(b).

On information and belief, RENALE alleges that the Facility has been discharging and continues to discharge non-storm water in violation of Discharge Prohibition A(1) of the General Permit. As described in a March 18, 2014 letter from Matthias St. John, Executive Officer of the Regional Board, to Susan Klassen, Director of the Sonoma County Department of Transportation and Public Works (“Regional Board letter”), the Facility has been continually discharging compost wastewater to local receiving waters. The Regional Board letter observes that the Best Management Practices (“BMPs”) at the compost deck of the Facility will be “dwarfed by the volume of runoff and sediment generated on the compost deck during a large storm event.” It relates that SCMWA recently abandoned a plan to reduce wastewater discharges during the 2013-2014 rainy season. The letter concludes that the Regional Board is “concerned by the lack of progress in developing a viable long-term discharge elimination plan within the proposed timeframe of completion before the next rainy season...”

Compost wastewater is not a type of authorized non-storm water discharge authorized by Special Condition D(1) of the General Permit. Accordingly, the discharge of compost wastewater to waters of the United States is prohibited by Discharge Prohibition A(1) of the General Permit. On information and belief, RENALE alleges that compost wastewater from the composting operations at the Facility regularly flows to the Facility’s storm water drainage system and is subsequently discharged from the Facility to two unnamed tributaries that flow to Stemple Creek, which flows to the Estero de San Antonio, which flows to Bodega Bay.

These violations have been occurring since at least June 17, 2009 and are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Central Disposal is subject to penalties for violations of the General Permit and the Clean Water Act since June 17, 2009.

***B. Discharges in Violation of the Permit not Subjected to BAT/BCT***

Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and non-conventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance. Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

To the extent that discharges from the composting facility at Central Disposal would be considered storm water discharges associated with industrial activity, RENALE's investigation indicates that Central Disposal has not implemented BAT and BCT at the Facility for those discharges. BAT/BCT for discharges of waste from the composting activities at the Facility is the elimination of such discharges – the WDRs prohibit such discharges from reaching even the stormwater sedimentation basins at the Facility. The Facility was required to have implemented BAT and BCT by no later than October 1, 1992, and the composting operations at the Facility began in 1993. Thus, on information and belief, RENALE alleges that Central Disposal is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

On information and belief, RENALE alleges that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAT alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since June 17, 2009, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which RENALE alleges that Central Disposal has discharged storm water containing impermissible discharges from the composting area at the Facility in violation of

Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.<sup>2</sup>

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing pollutants from the composting operations constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Central Disposal is subject to penalties for violations of the General Permit and the Act since June 17, 2009.

### **III. Persons Responsible for the Violations.**

RENALE puts Central Disposal, Sonoma Compost Company, the County, Sonoma County Waste Management Agency, Henry Mikus, Will Bakx, Alan Siegle, Trish Pisenti, and Susan Klassen on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, RENALE puts Central Disposal and the above individuals on notice that it intends to include those persons in this action.

### **IV. Name and Address of Noticing Parties.**

The name, address and telephone number of RENALE is as follows:

Roger Larsen  
RENALE  
68 Wambold Lane  
Petaluma, CA 94952  
Tel. (707) 799-0582  
rogerjlarson@aol.com

### **V. Counsel.**

RENALE has retained counsel to represent it in this matter. Please direct all communications to:

Michael R. Lozeau  
Douglas J. Chermak  
Lozeau Drury LLP  
410 12th Street, Suite 250  
Oakland, California 94607  
Tel. (510) 836-4200

---

<sup>2</sup> The rain dates are all the days when at least 0.1" or more of rain fell as measured by a weather station in Petaluma, California, approximately 8 miles away from the Facility.  
[http://www.ipm.ucdavis.edu/calludt.cgi/WXDESCRIPTION?STN=PETALUMA\\_EAST.A](http://www.ipm.ucdavis.edu/calludt.cgi/WXDESCRIPTION?STN=PETALUMA_EAST.A)  
(Last accessed on June 16, 2014).

Notice of Violations/Intent re: Central Disposal Site  
June 17, 2014  
Page 7 of 8

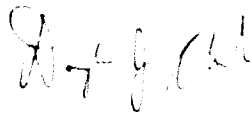
michael@lozeaudrury.com  
doug@lozeaudrury.com

**VI. Penalties Pursuant to the Clean Water Act.**

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Central Disposal Sonoma Compost Company, the County, Sonoma County Waste Management Agency, Henry Mikus, Will Bakx, Alan Siegle, Trish Pisenti, and Susan Klassen to a penalty of up to \$37,500 per day per violation. In addition to civil penalties, RENALE will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

RENALE believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. RENALE intends to file a citizen suit under Section 505(a) of the Act against Central Disposal, Sonoma Compost Company, the County, Sonoma County Waste Management Agency, Henry Mikus, Will Bakx, Alan Siegle, Trish Pisenti, and Susan Klassen =for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, RENALE would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, RENALE suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. RENALE does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Douglas J. Chermak  
Lozeau Drury LLP  
Attorneys for RENALE

cc via first class mail: Alan Siegle, Agent for Service of Process for Sonoma Compost  
Company  
6789 Berryhill Ct.  
Forestville, CA 95436



Notice of Violations/Intent re: Central Disposal Site  
June 17, 2014  
Page 8 of 8

**SERVICE LIST**

Gina McCarthy, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Thomas Howard, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Jared Blumenfeld, Regional Administrator  
U.S. EPA – Region 9  
75 Hawthorne Street  
San Francisco, CA, 94105

Matthias St. John, Executive Officer  
North Coast Regional Water Quality Control Board  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403

Notice of Violations and Intent to File Suit

**ATTCHMENT A**  
**Rain Dates, Central Disposal Site, Petaluma, California**

10/13/2009	4/27/2010	2/24/2011
10/15/2009	5/10/2010	2/25/2011
10/19/2009	5/17/2010	3/2/2011
12/11/2009	5/25/2010	3/5/2011
12/12/2009	5/27/2010	3/6/2011
12/13/2009	10/22/2010	3/13/2011
12/16/2009	10/23/2010	3/15/2011
12/26/2009	10/24/2010	3/17/2011
12/29/2009	10/28/2010	3/18/2011
1/1/2010	10/29/2010	3/19/2011
1/17/2010	11/7/2010	3/20/2011
1/19/2010	11/19/2010	3/22/2011
1/20/2010	11/20/2010	3/23/2011
1/21/2010	11/21/2010	3/24/2011
1/22/2010	11/22/2010	3/25/2011
1/23/2010	11/27/2010	3/26/2011
1/25/2010	12/5/2010	4/13/2011
1/29/2010	12/8/2010	4/20/2011
2/4/2010	12/14/2010	4/25/2011
2/6/2010	12/17/2010	5/14/2011
2/9/2010	12/18/2010	5/15/2011
2/12/2010	12/19/2010	5/16/2011
2/23/2010	12/20/2010	5/17/2011
2/26/2010	12/21/2010	5/25/2011
2/27/2010	12/22/2010	5/28/2011
3/2/2010	12/25/2010	5/31/2011
3/3/2010	12/26/2010	6/1/2011
3/9/2010	12/28/2010	6/4/2011
3/12/2010	1/1/2011	10/4/2011
3/24/2010	1/2/2011	11/5/2011
3/29/2010	1/13/2011	11/11/2011
3/30/2010	1/29/2011	11/19/2011
3/31/2010	1/30/2011	11/20/2011
4/2/2010	2/14/2011	11/24/2011
4/4/2010	2/15/2011	1/19/2012
4/11/2010	2/16/2011	1/20/2012
4/12/2010	2/17/2011	1/21/2012
4/20/2010	2/18/2011	1/22/2012

Notice of Violations and Intent to File Suit

**ATTCHMENT A**  
**Rain Dates, Central Disposal Site, Petaluma, California**

1/23/2012	11/30/2012	11/20/2013
2/6/2012	12/1/2012	12/6/2013
2/7/2012	12/2/2012	2/2/2014
2/12/2012	12/4/2012	2/5/2014
2/29/2012	12/5/2012	2/6/2014
3/13/2012	12/15/2012	2/7/2014
3/14/2012	12/21/2012	2/8/2014
3/16/2012	12/22/2012	2/9/2014
3/24/2012	12/23/2012	2/26/2014
3/25/2012	12/25/2012	2/28/2014
3/27/2012	1/5/2013	3/3/2014
3/31/2012	2/7/2013	3/5/2014
4/10/2012	2/19/2013	3/25/2014
4/12/2012	3/5/2013	3/26/2014
10/21/2012	3/6/2013	3/29/2014
10/22/2012	3/20/2013	3/31/2014
10/31/2012	3/30/2013	4/1/2014
11/16/2012	3/31/2013	4/4/2014
11/17/2012	4/4/2013	4/25/2014
11/20/2012	4/7/2013	
11/28/2012	10/6/2013	
11/29/2012	11/19/2013	

**Notice of Violations and Intent to File Suit**

